

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

DERRICK L. WILLIAMS,)	
)	
Plaintiff,)	
)	
v.)	No. 2:21-cv-00189-JPH-MG
)	
KERRY FORESTAL,)	
)	
Defendant.)	

ORDER SCREENING SECOND AMENDED COMPLAINT

Derrick Williams is a prisoner at Edinburgh Correctional Facility. He brings this lawsuit alleging that a group of sheriff's deputies at Marion County Jail severely battered him because of his complaints about the jail's response to the Covid-19 pandemic. The deputies then left Mr. Williams in an isolated cell for two days without medical treatment.

The Court issued an order screening Mr. Williams' first amended complaint on October 7, 2021. *See* *dk.* 24. The Court found that the first amended complaint stated Fourteenth Amendment claims for excessive force, failure-to-protect, and unreasonable treatment of serious medical needs against the unnamed sheriff's deputies. *Id.* at 3. The Court allowed these claims to proceed against Marion County Sheriff Kerry Forestal in his official capacity and provided Mr. Williams with period of time to conduct discovery for the limited purpose of learning the identifies of his alleged assailants. *Id.* at 4.

Mr. Williams has filed a second amended complaint describing the incident at Marion County Jail. *See* *dk.* 44; *dk.* 44-1, pp. 1-7. The second amended complaint names Deputy Ballard, Deputy Gilbert, Officer Tyler Idisutt, Sergeant Stewart, and Deputy Purdy. *Dkt.* 44, p. 1. Liberally construed, the second amended complaint states Fourteenth Amendment excessive force, failure

to protect, and medical needs claims against these defendants. Accordingly, these claims **shall proceed** against all defendants in their individual capacities.

Mr. Williams has filed two motions for an extension of time to file his second amended complaint. These motions, dkts. [36] and [41], are **granted to the extent** that the Court accepts Mr. Williams' second amended complaint as timely filed.

Mr. Williams has filed two motions for assistance recruiting counsel. These motions will be granted in a separate order, and the Court will attempt to recruit *pro bono* counsel for Mr. Williams.

Mr. Williams has also filed a motion to compel and a motion for court assistance. Both motions state that Sheriff Forestal has refused to provide the names of the deputies who assaulted Mr. Williams at the jail. In a responsive filing, Sheriff Forestal states that he sent Mr. Williams a supplemental discovery response on January 6, 2022. Dkt. 43. This filing, and Mr. Williams' second amended complaint, suggest that Sheriff Forestal ultimately produced the discovery at issue. Further, the Court believes that the appearance of recruited counsel will help facilitate additional discovery requests moving forward. Finally, Mr. Williams will have an opportunity to seek leave to file a third amended complaint, by recruited counsel, after the issuance of the pretrial scheduling order. For these reasons, the motion to compel and the motion for court assistance, dkts. [37] and [42], are **denied without prejudice**.

The **clerk is directed** pursuant to Fed. R. Civ. P. 4(c)(3) to issue process to defendants Deputy Ballard, Deputy Gilbert, Officer Tyler Idisutt, Sergeant Stewart, and Deputy Purdy in the manner specified by Rule 4(d). Process shall consist of the second amended complaint, dkt. [44], applicable forms (Notice of Lawsuit and Request for Waiver of Service of Summons and Waiver of service of Summons), and this Order.

The **clerk is directed** add Deputy Ballard, Deputy Gilbert, Officer Tyler Idisutt, Sergeant Stewart, and Deputy Purdy as defendants on the docket. The **clerk is directed** to terminate Sheriff Kerry Forestal as a defendant on the docket.

SO ORDERED.

Date: 2/7/2022



James Patrick Hanlon
United States District Judge
Southern District of Indiana

Distribution:

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